

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201137581
Issue No. 5025
Case No. [REDACTED]
Hearing Date: August 4, 2011
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and Michigan Compiled Laws 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, August 4, 2011. The Claimant appeared and testified along with [REDACTED] the Claimant's authorized hearing representative. [REDACTED] Eligibility Specialist, and [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Whether the Department acted in accordance with Department policy when it denied the Claimant's application for State Emergency Relief (SER) benefits for assistance with energy services, home repairs and property taxes.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 4, 2011, the Claimant applied for SER assistance with his energy services, home repairs and property taxes.
2. At the time of application, the Claimant indicated that he resided at [REDACTED]

3. At the time of application, the Claimant listed his mailing address as [REDACTED]
4. In support of his application for SER assistance with energy services, the Claimant submitted a payment coupon from DTE showing the current amount owed and that the Claimant was enrolled in a shut-off protection plan.
5. In support of his application for SER assistance with property taxes, the Claimant submitted a Notice of Property Tax Delinquency from the Wayne County Treasurer.
6. In support of his application for SER assistance with home repairs, the Claimant submitted an invoice for windows, a copy of the lien for repairs to the roof, and a letter from a creditor regarding the outstanding bill for the repairs done to the roof.
7. On April 6, 2011, the Department sent a notice to the Claimant's residence at [REDACTED] stating that the Department denied the Claimant's application for SER benefits because the Claimant failed to meet the program requirements.
8. On May 24, 2011, the Department received the Claimant's timely written request for hearing because the Claimant was never notified of the outcome of the SER application.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. Michigan Administrative Code Rules R 400.7001-400-7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (ERM).

Energy Services

The first issue in this case relates to SER energy assistance. SER benefits are in place to assist applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, the Department may authorize payment directly to the enrolled service provider. ERM 301. The Department is obligated to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy

company. ERM 301. Contact can be in the form of a written notice, telephone call, fax, email or information on the provider's secure website. ERM 301.

In this case, the Claimant's authorized hearing representative testified that a DTE payment coupon was submitted in support of the SER application. That particular document did not provide evidence of the Claimant's shut-off status; however, during the hearing the Claimant's authorized hearing representative testified that the services were in shut-off status at the time of the application. The Department testified that SER assistance with energy services was denied because the Claimant failed to provide a bill showing the services were in shut-off status or were shut-off.

According to Department policy, in SER energy assistance cases, the Department is obligated to verify the shut-off status with the service provider in order to determine the Claimant's eligibility. There was no evidence that the Department verified the shut-off status before denying the application due to ineligibility.

The Department further testified that the mail sent to the Claimant's residence was returned and the Claimant failed to provide proof that the bill was attributed to Claimant's address because the energy bill submitted by the Claimant had a post office box listed as the mailing address.

According to Department policy, an energy bill must be connected to the group's current address. ERM 301. But in this case, there is simply no evidence that the Claimant's energy bill was not connected to the residence. To the contrary, the evidence and testimony established that the service is associated with the residential address and the mailing address for the service, as listed on the bill, is at a post office box. This was clearly listed on the SER application. The Department failed to establish that, simply because there was an alternate mailing address listed on the bill, that the account listed on the bill was not connected to the Claimant's residence. What is more, the Department admitted that it sent correspondence regarding the SER application to the residence and not to the mailing address, despite the mailing address being plainly listed on the application. And even when the mail was returned, the Department stated that it did not re-send the correspondence to the listed mailing address.

Based on the failure to verify the shut-off status and refusal to send correspondence to the listed mailing address, the Department has not established that it acted in accordance with Department policy when it denied the Claimant's application for SER assistance with energy services. Accordingly the action taken by the Department with respect to SER energy services is not upheld.

Property Taxes

The second issue in this matter relates to SER benefits for assistance with property taxes. SER prevents serious harm to individual and families to resolve or prevent homelessness by providing money for property taxes and fees, among other things. ERM 304. The Department will assist by providing property tax assistance to save a home only if that home is threatened with loss due to tax foreclosure or sale. ERM 304.

To be eligible, the Claimant seeking the SER tax assistance must provide the Department with a statement from the taxing authority verifying the total tax arrearage, **and** a notice scheduling a judicial foreclosure hearing. ERM 304.

In this case the Claimant's authorized hearing representative testified that the Claimant provided a notice of property tax delinquency. The undersigned finds that this notice is sufficient to verify the total tax arrearage, however, that notice is insufficient evidence that a judicial foreclosure hearing was scheduled. Under these facts, the Department acted in accordance with Department policy when it denied the Claimant's application for SER benefits for assistance with property taxes. Accordingly, with respect to SER assistance with property taxes, the action taken by the Department is upheld.

Home Repairs

The third issue in this matter relates to SER benefits for assistance with home repairs. SER home repair assistance is provided only in cases where the repairs are essential to remove a direct threat to health or safety. ERM 304. The repair(s) must restore the home to a safe, livable condition. ERM 304. The Department may not authorize a payment for home repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage. ERM 304.

Based on the foregoing, the undersigned finds that the Claimant failed to show a direct threat to health and safety which would have been resolved by the repairs that were performed on the residence. Additionally, the Claimant submitted a notice of tax delinquency for use in seeking SER assistance with property taxes, but the Department was obligated to consider this as evidence that the Claimant was ineligible for SER home repair assistance because a property tax arrearage exists. Accordingly, the Department acted in accordance with Department policy when it denied the Claimant's application for SER home repair assistance based on ineligibility.

DECISION AND ORDER.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Department established it acted in accordance with Department policy when it denied the Claimant's application for SER property tax assistance and home repair assistance based on ineligibility. The undersigned further finds that the

Department failed to establish that it acted in accordance with Department policy when it denied the Claimant's application for SER energy assistance based on ineligibility.

Accordingly, it is ORDERED:

1. The Department's denial of the SER application for property tax and home repair assistance is PARTIALLY AFFIRMED.
2. The Department's denial of the SER application for energy services is PARTIALLY REVERSED.
3. The Department shall register the Claimant's April 4, 2011, application for SER energy services and begin re-processing the application in accordance with Department policy.
4. The Department shall notify the Claimant in writing of the determination in accordance with Department policy.
5. The Department shall supplement the Claimant for any lost benefits he was otherwise eligible and qualified to receive in accordance with Department policy.


Andrea J. Bradley
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 1, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this


2011-37581/AJB

Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

AJB/DJ

cc:

A large black rectangular redaction covers the names of the recipients in the cc field. The redaction is composed of several overlapping horizontal bars of varying lengths, creating a solid black block that obscures all text underneath.